

ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NEW YORK STATE RESTAURANT
ASSOCIATION,

Plaintiff,

-against-

NEW YORK CITY BOARD OF HEALTH,
NEW YORK CITY DEPARTMENT OF
HEALTH AND MENTAL HYGIENE, and
Thomas R. Frieden, In His Official Capacity
as Commissioner of the New York City
Department of Health and Mental Hygiene,

Defendants.

No. 07 Civ. 05710 (RJH)

**MOTION TO ADMIT COUNSEL PRO
HAC VICE**

FILED
U.S. DISTRICT COURT
2007 JUL 13 AM 10:24
S.D. OF N.Y.

PURSUANT TO RULE 1.3(c) of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York, I, ANDREW M. GSCHWIND, a member in good standing of the bar of this Court, hereby move for an Order allowing the admission pro hac vice of

Francesca Gessner
San Francisco City Attorney's Office
1 Dr. Carlton B. Goodlett Place, Room 234
San Francisco, CA 94102
Telephone: (415) 554-4762
Facsimile: (415) 554-4699
francesca.gessner@sfgov.org

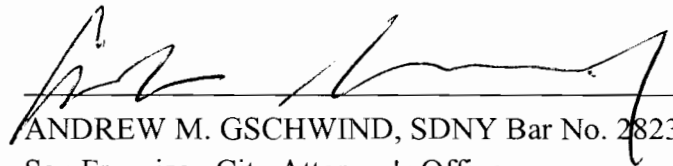
FRANCESCA GESSNER is a member in good standing of the Bar of the State of California.

There is no pending disciplinary proceeding against FRANCESCA GESSNER in any State or Federal Court.

Dated: JUNE 28, 2007

San Francisco, California

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Andrew M. Gschwind", is written over a horizontal line.

ANDREW M. GSCHWIND, SDNY Bar No. 2823250
San Francisco City Attorney's Office
City and County of San Francisco
1390 Market Street, 6th Floor
San Francisco, CA 94102
Telephone: (415) 554-3973
Facsimile: (415) 554-3837

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**AFFIDAVIT OF ANDREW M.
GSCHWIND IN SUPPORT OF MOTION
TO ADMIT COUNSEL PRO HAC VICE**

State of California)
)
County of San Francisco) ss:

ANDREW M. GSCHWIND, being duly sworn, hereby deposes and says as follows:

1. I am a deputy city attorney at the San Francisco City Attorney's Office, counsel for Amicus Curiae City and County of San Francisco in the above captioned action. I am familiar with the proceedings in this case. I make this statement based on my personal knowledge of the facts set forth herein and in support of Amicus Curiae's motion to admit FRANCESCA GESSNER as counsel pro hac vice to represent Amicus Curiae in this matter.
2. I am a member in good standing of the bar of the State of New York, and was admitted to practice law in February 1997. I am also admitted to the bar of the United States District Court for the Southern District of New York, and am in good standing with this Court.

3. I have known Francesca Gessner since she joined the San Francisco City Attorney's Office.
4. Francesca Gessner is a Deputy City Attorney at the San Francisco City Attorney's Office in San Francisco, California.
5. I have found Ms. Gessner to be a skilled attorney and a person of integrity. She is experienced in Federal practice and is familiar with the Federal Rules of Procedure.
6. Accordingly, I am pleased to move for the admission of Francesca Gessner, pro hac vice.
7. I respectfully submit a proposed order granting the admission of Francesca Gessner, pro hac vice, which is attached hereto as Exhibit A.

WHEREFORE it is respectfully requested that the motion to admit Francesca Gessner, pro hac vice, to represent Amicus Curiae in the above captioned matter, be granted.

Dated: *June 28, 2007*

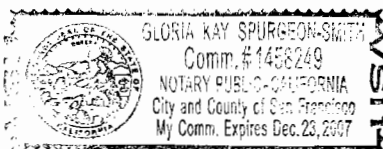
San Francisco, California

Notarized:

Respectfully submitted,


ANDREW M. GSCHWIND, SDNY Bar No. 2823250

Subscribed and sworn to before me this 28th day of June 2007 by Andrew M. Gschwind, personally known to me and who appeared before me.



Gloria Kay Spurgeon-Smith

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NEW YORK CITY BOARD OF HEALTH,
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Defendants.

No. 07-CIV-05710 (RJH)

**ORDER FOR ADMISSION PRO HAC
VICE ON WRITTEN MOTION**

Upon the motion of Andrew M. Gschwind, attorney for Amicus Curiae City and County of San Francisco and said sponsor attorney's affidavit in support;

IT IS HEREBY ORDERED that

Francesca Gessner
San Francisco City Attorney's Office
1 Dr. Carlton B. Goodlett Place, Room 234
San Francisco, CA 94102
Telephone: (415) 554-4762
Facsimile: (415) 554-4699
francesca.gessner@sfgov.org

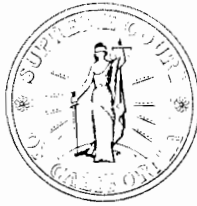
is admitted to practice pro hac vice as counsel for Amicus Curiae City and County of San Francisco in the above captioned case in the United States District Court for the Southern District of New York. All attorneys appearing before this Court are subject to the Local Rules of this Court, including the Rules governing discipline of attorneys. If this action is assigned to the

Electronic Case Filing (ECF) system, counsel shall immediately apply for an ECF password at nysd.uscourts.gov. Counsel shall forward the pro hac vice fee to the Clerk of the Court.

Dated:

New York, New York

United States District/Magistrate Judge



Supreme Court of California

FREDERICK K. OHLRICH

Clerk of the Court

CERTIFICATE OF THE CLERK OF THE SUPREME COURT

OF THE

STATE OF CALIFORNIA

FRANCESCA ROSANNA GESSNER

I, FREDERICK K. OHLRICH, Clerk of the Supreme Court of the State of California, do hereby certify that FRANCESCA ROSANNA GESSNER was on the 12th day of December, 2006, duly admitted to practice as an attorney and counselor at law in all the courts of this state; and that his/her name now appears on the Roll of Attorneys as a member of the bar of this state in good standing.

*Witness my hand and the seal of the court,
this 25th day of June, 2007.*

FREDERICK K. OHLRICH

Clerk of the Supreme Court

By:

A handwritten signature in cursive script, appearing to read "Allison E. Thompson", written over a horizontal line.

Deputy Clerk

ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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as Commissioner of the New York City
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No. 07-CIV-05710 (RJH)

PROOF OF SERVICE

DENNIS J. HERRERA, State Bar #139669
City Attorney
DANNY CHOU, State Bar #180240
Chief of Appellate Litigation
RAFAL OFIERSKI, State Bar #194798
FRANCESCA GESSNER, State Bar #247553
Deputy City Attorneys
1 Dr. Carlton B. Goodlett Place, Room 234
San Francisco, California 94102-4682
Telephone: (415) 554-4762
Facsimile: (415) 554-4699
E-Mail: francesca.gessner@sfgov.org

Attorneys for Amicus Curiae
CITY AND COUNTY OF SAN FRANCISCO

PROOF OF SERVICE

I, HOLLY TAN, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the above-entitled action. I am employed at the City Attorney's Office of San Francisco, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 234, San Francisco, CA 94102.

On July 10, 2007, I served the following document(s):

MOTION TO ADMIT COUNSEL PRO HAC VICE

**AFFIDAVIT OF ANDREW M. GSCHWIND IN SUPPORT OF MOTION TO ADMIT
COUNSEL PRO HAC VICE**

on the following persons at the locations specified:

Nancy G. Milburn
Arnold & Porter LLP
399 Park Avenue
New York, NY 10022
Telephone: 212-715-1000
Facsimile: 212-715-1399
Attorneys for Plaintiff

Michael A. Cardozo
Mark W. Muschenheim
Corporation Counsel of the City of New York
100 Church Street
New York, NY 10007
Telephone: 212-442-0573
Attorneys for Defendants

in the manner indicated below:



BY OVERNIGHT DELIVERY: I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and delivery by overnight courier service. I am readily familiar with the practices of the San Francisco City Attorney's Office for sending overnight deliveries. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be collected by a courier the same day.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed July 10, 2007, at San Francisco, California.



HOLLY TAN